

DDS -*DRAFT* - RESOLUTION PROCESS-EARLY INTERVENTION PROGRAM FOR INFANTS AND TODDLERS

Introduction

Parents dissatisfied with the decision of a public agency or service provider to initiate or change the identification, evaluation, or placement of a child or the provision of appropriate early intervention services to the child and the child's family meeting the eligibility requirement of this section have the right to file an appeal to resolve their complaints. This process is called Administrative Hearing. The Appeals and Hearings Section of the Office of Chief Counsel had been designated as the authority for conducting these hearings. *Upon notification of filing of due process, the state shall offer a "resolution process".

Preliminary Meeting

Prior to the opportunity for an impartial due process hearing under subparagraph (A), the local educational agency shall convene a meeting with the parents and the relevant member or members of the IEP Team who have specific knowledge of the facts identified in the complaint

- (I) within 15 days of receiving notice of the parent's complaint
- (II) which shall include a representative of the agency who had decision making authority on behalf of such agency.
- (III) Which may not include an attorney of the local educational agency unless the parent is accompanied by an attorney; and
- (IV) Where the parents of the child discuss their complaint, and the facts that form the basis of the complaint, and the local educational agency is provided the opportunity to resolve the complaint, unless the parents and the local educational agency agree in writing to waive such meeting or agree to use the mediation process described in subsection (e).

Notification

Notices to parents regarding proposed actions must:

1. Contain specific information about the action being proposed or refused
2. Provide information on all procedural safeguards that are available
3. Be written in language that is understandable to the general public
4. Be provided in the native language of the parents
5. Be translated orally or by other means to the parent in the parent's native language or other mode of communication if the native language or other mode of communication of the parents is not written language
6. Provide written verification that the notice requirements have been met
7. Advise the parents of the right to request a hearing to resolve complaints

Requesting the Hearing

A request for a hearing is defined as a clear expression, in writing, by the parents or their representative that they wish to appeal the decision or to present their case to a higher authority. The freedom to make such a decision must not be interfered with in any way. If the reason for the request for a hearing is unclear, the Appeals and Hearings Section may request that the parents/representative clarify the request.

The parents/representative must submit the written request for a hearing to the Appeals and Hearings Office. They will be advised of any available legal services who can provide representative at the hearing. If the parents/representative cannot speak English or have a hearing or visual impairment, bilingual staff or interpreters must be made available, and the hearing procedures must be made clear to the household in whatever manner is required.

RESOLUTION SESSION

Hearing

If the local educational agency has not resolved the complaint to the satisfaction of the parents within 30 days of the receipt of the complaint, the due process hearing may occur, and all of the applicable timelines for a due process hearing under this part shall commence.

Written Settlement Agreement

In the case that a resolution is reached to resolve the complaint at a meeting described in clause (i), the parties shall execute a legally binding agreement that is –

- (I) signed by both the parent and a representative of the agency who has the authority to bind such agency; and
- (II) enforceable in any State court of competent jurisdiction or in a district court of the United States.

Review Period

If the parties execute an agreement pursuant to clause (iii), a party may void such agreement with 3 business days of the agreement's execution.